

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

v.

WILLIE DWAYNE MICKEY,  
Defendant.

Crim. Case No. 3:15-cr-1201-BTM-1  
Civ. Case. No. 3:24-cv-2243-BTM

**ORDER DISMISSING  
DEFENDANT WILLIE DWAYNE  
MICKEY'S 28 U.S.C. § 2255  
MOTION**

**[ECF No. 208]**

Before the Court is Defendant Willie Dwayne Mickey's motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255 based on alleged newly discovered evidence and ineffective assistance of counsel. (ECF No. 208.) For the reasons described below, the Court **DISMISSES** Mr. Mickey's motion.

**I. PROCEDURAL BACKGROUND**

On April 18, 2016, a jury found Mr. Mickey guilty on two counts of sex trafficking by force, fraud, or coercion in violation of 18 U.S.C. §§ 1591(a) and (b)(1). (ECF No. 100.) Judgment was entered on September 16, 2016, and Mr. Mickey was sentenced to 204 months confinement and ten years of supervised release. (ECF No. 131.) On November 16, 2018, the Ninth Circuit entered a

1 judgment affirming the conviction. (ECF No. 144.)

2 On March 25, 2019, Mr. Mickey filed a motion to vacate, set aside, or correct  
3 sentence pursuant to 28 U.S.C. § 2255, and filed a supplemental § 2255 motion  
4 on May 28, 2019. (ECF Nos. 145, 147.) The Court denied those motions and  
5 denied a certificate of appealability on November 12, 2020. (ECF No. 170.) On  
6 December 3, 2020, Mr. Mickey filed a Notice of Appeal with the Ninth Circuit Court  
7 of Appeals requesting a certificate of appealability. (ECF No. 171.) On  
8 January 31, 2022, the Ninth Circuit affirmed the Court's denial of a certificate of  
9 appealability. (ECF No. 173.)

## 10 II. DISCUSSION

11 Because Petitioner's first § 2255 motion was denied, this is a successive  
12 petition. However, “[a] second or successive motion must be certified as provided  
13 in section 2244 by a panel of the appropriate court of appeals.” 28 U.S.C.  
14 § 2255(h). 28 U.S.C. § 2244(b)(3)(A) provides that “[b]efore a second or  
15 successive application permitted by this section is filed in the district court, the  
16 applicant shall move in the appropriate court of appeals for an order authorizing  
17 the district court to consider the application.” If an applicant “does not first obtain  
18 [the Ninth Circuit’s] authorization, the district court lacks jurisdiction to consider the  
19 second or successive application.” *Ezell v. United States*, 778 F.3d 762, 765 (9th  
20 Cir. 2015) (quoting *United States v. Lopez*, 577 F.3d 1053, 1061 (9th Cir. 2009));  
21 see also *United States v. Washington*, 653 F.3d 1057, 1065 (9th Cir. 2011)  
22 (holding that district court lacked jurisdiction to entertain successive § 2255 motion  
23 because the Ninth Circuit had not issued certificate authorizing successive  
24 motion).


25 Mr. Mickey has not demonstrated that he sought and obtained an order from  
26 the appropriate court (the United States Court of Appeals for the Ninth Circuit)  
27 authorizing him to file a successive § 2255 motion. The Court therefore lacks  
28 jurisdiction to consider the instant § 2255 motion.

1 **III. CONCLUSION**

2 For the reasons set forth above, Mr. Mickey's § 2255 motion is **DISMISSED**  
3 for lack of jurisdiction.

4  
5 **IT IS SO ORDERED.**

6  
7 Dated: December 9, 2024

8   
9 Hon. Barry Ted Moskowitz  
United States District Judge